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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re PERRY W., a Person  
Coming Under the Juvenile  
Court Law.

B294874  
(Los Angeles County  
Super. Ct. No. DK15559C)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

BERTHA R.,

Defendant and Appellant.

THE COURT:\*

Bertha R. (mother) appeals from the juvenile court's order terminating parental rights to her now three-and-a-half-year-old son, Perry W. (minor), under Welfare and Institutions Code

section 366.26.<sup>1</sup> After reviewing the juvenile court record, mother's court appointed counsel informed this court she could find no arguable issues to raise on mother's behalf. This court granted mother leave to personally file a letter setting forth a good cause showing that an arguable issue of reversible error exists. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844 (*Phoenix H.*.)

Mother filed a letter but failed to set forth a good cause showing that any arguable issue of reversible error arose from the section 366.26 hearing. (*Phoenix H., supra*, 47 Cal.4th at p. 844.) Consequently, we dismiss the appeal.

### **FACTUAL AND PROCEDURAL SUMMARY**

Minor (born October 2015) sustained a broken arm near the end of January 2016, when he was just three months old. Perry Sr. (father) claimed he accidentally rolled over on minor while they were sleeping. During a follow-up visit for treatment of the broken arm, medical personnel found bruising on minor's right eye, left and right cheeks; lacerations to the inside and outside of the right ear; and a fingernail mark inside the right ear. Minor, and his siblings—Jaylah (born 2012), and Jayden (born 2014)—were taken into protective custody. Father claimed minor's recent injuries were caused when Jayden struck minor with a toy. Minor was detained and placed with paternal relatives.

As a result of this incident and an ensuing investigation, the Los Angeles County Department of Children and Family Services (Department) filed a petition in February 2016 urging the juvenile court to assert dependency jurisdiction over minor and his siblings. Father was arrested in March 2016 after he confessed to law enforcement that he struck minor across the face

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

because he was frustrated minor would not stop crying. Law enforcement reported that mother tried to justify why father struck minor; was more concerned about what would happen to father—if he would go to jail and would have to serve time; and “is so in love [with father] and doesn’t see fault” with father’s actions. Father was convicted of felony child cruelty and sentenced to 365 days in jail and five years’ probation.

In the operative, first amended petition filed on May 10, 2016, the Department alleged that minor was suffering from “bruising” “swelling” and “lacerations” to his face and head, and a “fracture of [minor’s] humerus,” all of which are “injuries that are consistent with non-accidental trauma and blunt force trauma” and that mother and father “failed to obtain timely and necessary medical treatment” for the minor’s injuries. The Department alleged that this conduct (1) placed minor and his siblings at “substantial risk” of “suffer[ing] . . . physical harm inflicted nonaccidentally” (making jurisdiction appropriate under section 300, subdivision (a)); (2) placed minor and his siblings at “substantial risk” of “suffer[ing] . . . physical harm . . . as a result of the failure or inability of [mother and father] . . . [to] protect the child” adequately (making jurisdiction appropriate under section 300, subdivision (b)); (3) was inflicted on minor while he was “under the age of five” and caused him to “suffer[] severe physical abuse by a parent” (making jurisdiction appropriate under section 300, subdivision (e)); and (4) placed minor and his siblings at “substantial risk” of “abuse[]” or “neglect[]” due to the abuse or neglect of minor (making jurisdiction appropriate under section 300, subdivision (j)).

The Department recommended family reunification services for mother despite grave concerns about mother’s (1) lack

of knowledge of how to parent when it comes to risk or harm to her children; (2) lack of ability to recognize physical abuse within the confines of her home; and (3) failure to recognize the extent to which father physically disciplined minor. The Department recommended no reunification services for father pursuant to section 361.5.

The matter proceeded to a jurisdictional hearing in October 2016. The juvenile court sustained the petition under section 300, subdivisions (a), (b), and (j), and dismissed the subdivision (e) count. Minor remained placed with his paternal relatives and the court ordered reunification services for mother and father.

Initially, mother was partially compliant with the court orders—she enrolled in parenting and domestic violence classes but was non-compliant with her substance abuse program once father was released from county jail.

The court conducted a six-month review hearing on April 4, 2017, and continued all prior orders.

For the 12-month review hearing on November 21, 2017, the Department reported on mother's continued alcohol dependency, her failure to enroll in a substance abuse program or complete a 12-step program. She expressed to the Department that she was waiting to "reunify[] with the children before she stopped drinking." During parental visits, minor was observed to avoid having close contact with mother; slapped her face when she tried to kiss or show affection; turned away from her and at times yelled for her to leave him alone. The court terminated family reunification services for mother, set the matter for a section 366.26 hearing, and ordered the Department to prepare an adoption assessment plan.

Following the termination of reunification services, mother did not maintain visits with minor or remain in contact with the Department. In July 2018, minor's caregivers with whom he had been placed since February 2016, filed a De Facto Parent Request.

On November 9, 2018, father filed a section 388 petition requesting additional reunification services. Mother filed a section 388 petition on December 11, 2018, also requesting additional reunification based on her enrollment in a residential treatment program from October to November 2018.

The juvenile court held a combined hearing on father and mother's individual section 388 petitions and the section 366.26 permanency planning on December 14, 2018. The court denied the section 388 petitions. With respect to mother's petition, the court found that mother had shown *changing* circumstances but not *changed* circumstances given her lengthy history of substance abuse and her failure to enroll in any substance abuse program for over two years. More importantly, mother did not meet her burden on the section 388 petition of showing the requested modification was in minor's best interest. The court then addressed the permanent plan for the minor. Mother asked that her parental rights not be terminated based on the beneficial parent-child relationship exception (§ 366.26, subd. (c)(1)(B)(i)). The court noted that the minor has been with his current caregivers (who are the paternal aunt and uncle) "for virtually his entire life"; that mother's visits were inconsistent, remained monitored the entire time, and seemed more like a "friendly relative[ ], not like [a] parent[ ]." The court found that mother did not have an established bond with minor and the beneficial parent-child relationship exception did not apply. With no other

exceptions applicable, the court then held that minor was adoptable, and likely to be adopted. The court ordered parental rights terminated so that minor could be adopted by his paternal caregivers who were designated as the prospective adoptive parents.

Mother filed a timely notice of appeal.

### **DISCUSSION**

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is appellant's burden to raise claims of reversible error or other defect and present argument and authority on each point made. If appellant fails to do so, the appeal may be dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

At a termination hearing, the juvenile court's focus is on whether it is likely the child will be adopted and if so, order termination of parental rights. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) If, as in this case, the child is likely to be adopted, the juvenile court must terminate parental rights unless the parent proves there is a compelling reason for finding that termination would be detrimental to the child under any of the circumstances listed in section 366.26, subdivision (c)(1)(B).

Mother's letter brief fails to sufficiently argue that the juvenile court erred. Mother raises the same arguments made in the juvenile court but fails to specifically challenge any of the evidence presented by the Department or to explain why that evidence was not sufficient to support the juvenile court's denial of the section 388 petition and termination of parental rights.

We conclude based on the letter mother filed that she failed to raise any arguable issues from the termination hearing that merit briefing and dismiss the appeal.

## **DISPOSITION**

The appeal is dismissed.

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\*ASHMANN-GERST, Acting P.J., CHAVEZ, J., HOFFSTADT, J.